



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

Larry E. Craig, Chairman
Jade West, Staff Director

June 22, 2001

From the Congressional Record

Senator Gregg: Claims that McCain-Edwards-Kennedy Caps Damages are Bogus

Here's what HELP Committee Ranking Member Judd Gregg (R-NH) had to say [as printed in the *Congressional Record* of June 19, 2001] about the supposed caps on damages the McCain-Edwards-Kennedy bill (S. 1052):

. . . Proponents of the McCain-Edwards bill would have you believe that they have compromised by adding a \$5 million cap on punitive damages for the Federal cause of action. But this cap is merely illusory.

The bill has no caps on Federal or State economic or non-economic damages. Plus, there are no caps on damages specified for the numerous lawsuits that would fall under State jurisdiction. And there is no evidence to suggest that State law caps would be applied to these various causes of action. In fact, most State medical malpractice law damage caps only apply to physicians and other health professionals – not health plans. California is one such example.

Excessive damage awards only harm physicians and patients. According to a study by Tillinghast-Towers Perrin, health plan liability will increase physician medical malpractice liability premiums by 8 to 20 percent because plaintiffs will target all possible defendants, including physicians. These costs will be passed on to patients in the form of higher premiums or reduced coverage.

Health plans will also pass on the increased costs of being exposed to large damage awards to employers who will in turn pass the costs on to employees or reduce or terminate coverage.